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CONCEPT, PROPERTIES AND PRINCIPLES OF ADMINISTRATIVE RESPONSIBILITY

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INTRODUCTION

The Institute of administrative responsibility is an outstanding institution of administrative law, an important means of protecting public order, which is characterized by all the signs of legal responsibility.

The role and place of administrative responsibility in the administrative and legal space is determined by the fact that the relations of administrative responsibility, together with the relations of public administration, administrative services and administrative proceedings form the subject of administrative law. And also the essential feature of administrative responsibility consists in pragmatism of its theoretical concepts which dominating orientation is defined by a problematics of the Code of Ukraine about administrative offenses.

1. The concept, characteristics and reasons of administrative responsibility

The concept of administrative responsibility, its content and scope to this day remains one of the most controversial issues of Ukrainian administrative and legal science.

The activity of discussions on this legal category is largely due, firstly, to the breadth of the use of the term "administrative responsibility" in the legal, scientific, law enforcement, educational spheres and at the domestic level, and secondly, to the dual position of the legislator, who uses this term in numerous regulations, but does not give its definition[1].

In fact, there is no legal definition of such a category as "administrative responsibility" in the current legislation. And all definitions of administrative responsibility are usually provided in scientific publications and have a research character.

For example, the legal encyclopedia in the article "Administrative responsibility" defines that: administrative responsibility-a type of legal responsibility of citizens and officials for the administrative offenses committed by them.

[1] Code of Ukraine on administrative offences. URL: http:\\www.rada.gov.ua (access date: 08.08.2019)

In the legal literature it is possible to meet such definitions:

a) administrative responsibility is the application of the offender, coercive measures (L. Koval, Y. Bytyak, V. Zui, and other);

b) administrative responsibility is the definition of restrictions on property, as well as personal benefits and interests for the Commission of administrative offenses (I. Dodin and others);

c) administrative responsibility is a set of administrative legal relations arising in connection with the application of administrative penalties to the subject of misconduct (I. Golosnichenko and others).

According to V. Kolpakov, the listed definitions lack the absence of instructions on the performance by the subjects of illegal actions of administrative coercion measures applied for their Commission, which is an essential component of any responsibility, including administrative. After all, responsibility comes only when the offender has carried out the measures of influence established by the competent person, or otherwise implemented.

Proceeding from the stated, administrative responsibility is provided by the legislation, compulsory, with observance of the established procedure, application by the competent subject concerning the persons who have committed administrative offenses of measures of influence which implementation is legally recognized.

Administrative responsibility, as well as other types of legal responsibility comes from the presence of normative, factual and documentary grounds:

- factual grounds are legal facts related to the offense, in particular, the fact of committing a misdemeanor and the fact of carrying out measures of responsibility, in addition, they include the facts of detention, inspection, filing appeals, recognition of evidence of factual data, etc;
- legal (normative) bases form norms on which act is recognized as an administrative offense (offense), measures of coercion for performance of structure of offense are defined, subjects of responsibility and jurisdiction, rules on which penalties are imposed and carried out, legality, the rights of participants of production, etc. are provided;
- procedure (documentary) grounds are procedural rules that bringing the guilty persons to administrative responsibility and documents in accordance with established requirements and the established legislation procedure, first and foremost, a Protocol on administrative offense and the decision on business about an administrative offence, and this includes certificates, statements, treatment records, etc.

There is no normative act that would contain all the legal norms that form the basis of administrative responsibility, or at least submit a list of them.

These grounds are determined by the requirements of a significant number of legal acts: codes, individual laws, regulations, rules and other acts[2].

Certain indications on their system are observed in the Code of Ukraine on administrative offences (CAO). So, in article 2 CAO established that the legislation of Ukraine on administrative offenses make:

a) the code of Ukraine on administrative offences;

b) other laws on administrative offences (such laws, for inclusion in the administrative Code, apply directly to them and in this case the provisions of the CAO apply).

In article 5 "powers of local councils on decision-making for which violation administrative responsibility is provided" fixed the right of local governments to make decisions for which violation administrative responsibility is provided.

According to it rural, settlement, city and regional councils make decisions on questions of fight against:

a) with natural disaster. The code of civil protection of Ukraine defines a natural disaster as a natural phenomenon, acts with great destructive force, causes significant damage to the territory in which it occurs, violates the normal life of the population, causes material damage;

b) epidemics. Violation of such decisions entails liability under Art. 42 "Violation of sanitary and hygienic and sanitary-antiepidemic rules and regulations";

c) epizootics. Violation of such decisions shall entail liability under art. 107 CAO "Violation of rules concerning quarantine of animals and other veterinary and sanitary requirements".

Besides, rural, settlement and city councils can establish:

a) rules of improvement, observance of cleanliness and an order in territories of settlements. Violation of such rules shall entail liability under article 152 of the CAO "Violation of state standards, norms and rules in the field of improvement of settlements, rules of improvement of territories of settlements";

b) rules of trade in the markets. Violation of such rules shall entail liability under article 159 of the CAO "Violation of the rules of trade in the markets";

c) rules of silence in settlements and public places. Violation of such rules shall entail liability under article 182 of the CAO "Violation of the requirements of legislative and other normative legal acts concerning the protection of the population from the harmful effects of noise or the rules of

[2] Kolpakov V. Administrative responsibility: studies. no. / V. Kolpakov. Kyiv: Yurinkom Inter, 2008. 256 p.

silence in settlements and public places". These provisions are correlated with the provisions of articles 26, 43 of the Law "on local self-government in Ukraine".

In addition, article 2 of the CAO contains a fundamental provision regarding administrative liability for violation of customs rules. It clearly indicates: the issue of administrative responsibility for violation of customs rules are regulated by the Customs code of Ukraine. This norm is correlated with the norms of article 487 of the Customs code of Ukraine, from which it follows that the legal support of proceedings on violation of customs rules in certain cases is carried out by the Code of Ukraine on administrative offenses[3].

An example of a law which contains provisions on administrative liability, which are applied directly (not included in CAO) can serve the Law of Ukraine from 04.03.1992 "On state property privatization", which in article 29 established the administrative responsibility of officials of bodies of privatization in the form of a penalty for unfounded refusal to accept the application on privatization; violation of terms of consideration of the application on privatization; violation of conditions and order of carrying out of competition, auction, sale of shares (shares, shares); violation of the conditions and procedure for the transfer of shares of joint stock companies created in the process of privatization, corporatization.

In addition, the current legislation contains a significant number of normative documents, which establish various rules and requirements, for violation of which the administrative Code provides for administrative responsibility. This, for example, road traffic Rules, approved by the decree of the Cabinet of Ministers of Ukraine from October 10, 2001 No. 1306 (administrative responsibility for their violation is provided by article 121–129 and other Art); Temporary rules of the circulation in Ukraine of household pyrotechnic products, approved by order of the Ministry of interior, dated 23 December 2003. No. 1649 (administrative responsibility provided by article 1956 "Violation of the order of production, storage, transportation, trade and use of pyrotechnics"); "Rules of air transportation of passengers and baggage" approved by the order of the Ministry of infrastructure of Ukraine on November 30, 2012 No. 735 (administrative responsibility is provided by Art. 112 "Violation of the rules of conduct on the aircraft"). In addition, the article (art. 112) establishes liability for non-compliance by persons on the aircraft, orders of the commander of the vessel,

[3] Kolomoets T. Administrative responsibility: studies. benefit. Kiev: Istina, 2011. 177 p.

who is a representative of the air carrier and is guided by the rules established by him, that is, corporate norms[4].

Special attention is paid to identify and eliminate the causes and conditions conducive to an administrative offence (article 6 of the "Prevention of administrative offence"), and rule of law in this sphere (article 7 "the rule of law in the application of measures of influence for administrative offences"). In particular, such methods of ensuring the rule of law as:

– systematic control by higher authorities and officials;
– prosecutorial supervision;
– right of appeal.

Important provisions concerning the normative provision of liability for administrative offences are contained in article 8 of the CAO "Operation of the law on liability for administrative offences", which establishes that:

– prosecution is carried out according to the norms in force at the time and place of the offense;
– laws that mitigate or annul the responsibility shall be retroactive (apply to offences committed prior to their publication);
– laws that establish or strengthen liability are not retroactive;
– proceedings for misconduct are conducted on the basis of the law in force during and at the place of consideration of the case.

Important importance for ensuring legality of administrative responsibility belongs to provisions which define the circumstances excluding administrative responsibility (Art. 17), and also release from it (Art. 21, 22).

The circumstances excluding administrative responsibility are directly spelled out in Art. 17 of the CAO:

1) a state of extreme necessity is the Commission of actions with signs of administrative misconduct to eliminate the danger threatening the state or public order, property, rights and freedoms of citizens, the established order of management, if this danger in these circumstances could not be eliminated by other means and if the harm caused is less significant than the harm prevented;

2) self-defense – it acts with signs of administrative violation in the protection of state or public order, property, rights and freedoms of citizens, the established order of management wrongful assault by inflicting harm to the attacker, if it was not admitted exceeding the limits of necessary defense and excess of limits of necessary defense, the law recognizes a clear discrepancy between the protection of nature and social harmfulness of infringement.

[4] Code of Ukraine on administrative offences. URL: http:\\www.rada.gov.ua (access date: 08.08.2019)

3) the state of insanity is the Commission of actions with signs of administrative misconduct by a person who could not be aware of his actions or direct them due to chronic mental illness, temporary mental disorder, dementia or other painful condition.

Exemption from administrative liability is the result of the conclusion of the subject, considering the case, about:

1) possibility of transfer of materials on an administrative offense for consideration of the public organization or labor collective in a case when character of the committed offense and the personality of the offender testifies to expediency of application to it of measures of public influence (Art. 21 CAO). In this case, a person who has committed an administrative offense is released from administrative responsibility with the transfer of materials for consideration of a public organization or a labor collective. On the public measures applied to persons who committed offenses under article 51, the first part of article 129, parts first and second of article 130, articles 156, 173, 176, 177, 178 – 180 Art, the owner of the enterprise, institution, organization or authorized body or Association must, not later than within ten days from the date of receipt of materials to inform the body (official) who sent the materials.

2) recognition of insignificance of a misdemeanor (Art. 22 CAO). In this case, the body (official) authorized to solve the case may release the offender from administrative responsibility and limit himself to an oral comment[5].

Taking into account the stated provisions, it can be concluded that the signs of administrative responsibility are:

1) bringing to administrative responsibility is possible only as a result of committing an administrative offense;

2) administrative responsibility consists in application to guilty of administrative penalties. In article. 23 CAO "The purpose of administrative penalty" it is specified that administrative penalty is a measure of responsibility;

3) the purpose of administrative responsibility is:

a) educating the person in the spirit of compliance with the laws, respect for the rules of the hostel;

b) preventing the Commission of new offenses;

4) the right to bring to administrative responsibility is provided to many subjects, among which-bodies of the state Executive power, local self-government, courts (art. 213 CAO "Bodies (officials) authorized to consider cases of administrative offenses");

[5] . Kolpakov V. Administrative responsibility: studies. no./V. Kolpakov. Kyiv: Yurinkom Inter, 2008. 256 p.

5) an act on bringing to administrative responsibility may be adopted: a) individually (judges and officials of the relevant bodies); b) collegially by voting (Executive committees and administrative commissions);

6) the legislation establishes a special procedure for bringing to administrative responsibility (drawing up a Protocol, collecting and evaluating evidence, making a decision, etc.);

7) the rules governing administrative responsibility are contained in various legal acts: a) codes; b) laws; c) rules. Rules can be approved by the Cabinet of Ministers, Executive authorities, established by decisions of local councils and even corporate acts.

2. Principles of administrative responsibility

Principle (from lat. principium-the beginning of, basis) – this the main the initial position any teachings, science, worldview and the like.

The principles of administrative responsibility are the main provisions enshrined in the Constitution and other laws of Ukraine, on which the procedure for bringing perpetrators to administrative responsibility is based.

The principles of administrative responsibility include:

- rule of law;
- legalities;
- expediencies;
- validities;
- inevitabilities;
- timeliness's;
- justices;
- humanism's;
- the individualization of punishment;
- correspondence of guilt and punishment, and the like.

The rule of law is a priority in the rule of law state. This principle is that administrative responsibility in Ukraine and the procedure for bringing to administrative responsibility is based on constitutional principles and legal presumptions, which are conditioned by the implementation and operation of the principle of the rule of law in Ukraine. The Constitution of Ukraine has the highest legal force, laws and other normative legal acts are adopted on the basis of the Constitution of Ukraine and must comply with it (part 2 of article 8 of the CU).

The principle of the rule of law is, in its essence, the principle of natural law as a set of ideal, spiritual and just concepts of law. Recognition of the constitutional principle of the rule of law means that the laws of the state, as well as their application, must comply with the law as a measure of universal and equal freedom and justice for all. In addition, the laws should

limit the arbitrariness of both individuals, legal entities and the state for the common good.

The principle of the rule of law means that the freedom of citizens should be ensured by such a legal order, when no one forces to do something that is not stipulated by the law, and the person, his rights and freedoms are recognized as the highest value. The rule of law also means that the government forms a law, but the law is the basis of life and existence of the state represented by its bodies, officials and other organizations[6].

The principle of legality is, firstly, that administrative responsibility comes only for those acts that are provided by law, secondly, to bring to administrative responsibility have the right only provided by law competent authorities, thirdly, public administration bodies when deciding on bringing the guilty person to administrative responsibility should be guided by the law and exercise their powers within the competence provided by law. The principle of legality of administrative responsibility is fixed in Art. 7 of the CAO.

The principle of expediency. The content of the concretizing decision, taken on the basis of administrative discretion, does not in all cases follow directly from the normative prescription. This objectively determines the existence of the principle, which makes it easier for the authorized subject to find the right solution. So, art. 21 of the Cao stipulates that a person who commits an administrative violation may be released from administrative liability with the transfer of materials for consideration of public organization or labor collective, if given the nature of the offense and the offender to him appropriate to apply a measure of societal impact. According to article 22 CAO body (official), authorized to solve the case, can release the offender from administrative responsibility and be limited to an oral remark at the insignificance of administrative misconduct. In expediency of release of the offender from administrative responsibility on the grounds of insignificance of his offense the various circumstances mitigating responsibility, including the conditions allowing to reach the educational and preventive purposes without application of measures of administrative influence, in particular, the fact of absence at the violator of steady antisocial installations can convince.

The principle of validity is that arbitrary bringing of a person to administrative responsibility is not allowed. Law enforcement bodies shall establish the fact of Commission of administrative offense, and also establish other circumstances of the case having value for qualification of

[6] Kolomoets T. Administrative coercion in the public law of Ukraine: theory, experience and practice: dis. ... doctor. Yuri. Sciences : 12.00.07. NATs. Ministry of internal Affairs. Kharkiv, 2005. 454 p.

administrative offense and individualization of administrative responsibility. Also, the choice of a specific measure of administrative punishment should be based on a thorough study of the case materials and taking into account the mitigating and aggravating circumstances of the case. The principle of reasonableness is not directly enshrined in the alms, but follows from its provisions. Thus, article 251 of the Cao stipulates that evidence in the case on administrative offence is any evidence on the basis of which in accordance with the law, the body (official) sets the presence or absence of administrative violation, guilt of the person in its Commission and other circumstances relevant to the proper resolution of the case[7].

The principle of inevitability assumes the inevitability of administrative responsibility for the person who committed an administrative offense. The inevitability of administrative responsibility depends to a greater extent on the well-established work of law enforcement agencies, on the professionalism of employees authorized to prosecute and apply sanctions. An administrative offence to which the state has not responded causes serious damage to the state. Impunity for offenders encourages them to commit new offences and sets a negative example for other vulnerable individuals.

The principle of timeliness of administrative responsibility means the possibility of bringing the offender to justice within the Statute of limitations, i.e. the period of time not too distant from the fact of the offense. The Statute of limitations for the application of administrative penalties to a person is regulated by article 38 of the administrative Code, which stipulates that an administrative penalty may be imposed no later than two months from the date of its detection, except when cases of administrative offenses in accordance with the administrative Code are subordinated to the court (judge). If cases on administrative offenses according to the administrative Code or other laws are subordinated to court (judge), penalty can be imposed not later than in three months from the date of Commission of an offense, and at the continuing offense – not later than in three months from the date of its detection. Administrative penalties for committing a corruption offense may be imposed within three months from the date of detection, but not later than one year from the date of its Commission. In case of refusal in excitation of criminal case or closure of the criminal case, but if the violator signs an administrative offence, the administrative penalty may be imposed not later than one month from the date of taking decision about refusal in excitation of criminal case or its closure.

[7] Mikolenko A. Administrative process and administrative responsibility in Ukraine: studies. no. Kharkiv: Odyssey, 2010. 365 p.

After the expiration of the limitation period, the possibility of imposing an administrative penalty is excluded. It is also necessary to note the fact that the Statute of limitations under article 38 of the CAO are absolute, that is, they cannot be continued by anyone, and their omission, regardless of the reasons, clearly excludes the imposition of an administrative penalty. However, practice shows another thing-the Statute of limitations for bringing to administrative responsibility are violated. And the reason here not only of incompetence, negligence, neglect of the body (official) deciding on the case, which violates the principle of legality and timeliness of administrative responsibility, but in ignorance of the legislation on administrative responsibility by the offender and the lack of proper control by the public over the activities of the administrative courts that are entitled to bring the perpetrators to administrative responsibility.

The principle of justice is that the legislator, providing for a sanction for an administrative offense, must proceed from the degree of public danger of this illegal act.

Principle of humanism. Its essence is respect for the dignity and rights of the person. Proceeding from the principle of humanism, officials are prohibited, under the guise of formal procedural regulations, to humiliate the dignity of a person, to infringe on his slightest needs and interests. Law enforcement exists only to realize the rights and obligations of citizens. And means, as it is known, should correspond to the purpose-to safe existence and development of the person in society. The choice of procedural forms that do not correspond to this goal hinders or even hinders the implementation of the ideas of humanism. In addition, humanism is a criterion for the correctness of the decision, and also manifests itself in circumstances that exclude the proceedings on an administrative offense (for example, the insanity of a person, a state of extreme necessity). The exact truth of the case must be judged according to moral principles.

The principle of individualization of punishment requires a correspondence between the degree of exposure to the elected offender and the degree of public danger of administrative misconduct. The application of this principle is closely related to the individualization of administrative responsibility depending on the degree of public danger of the offense and the characteristics of the offender. This principle is not enshrined in the CAO, however, follows from its provisions. For example, part 2 of art. 33 CAO fixes that at imposition of administrative penalty the nature of the committed offense, the personality of the violator, degree of its fault, property status, the circumstances mitigating and aggravating responsibility are considered.

The principle of conformity of guilt and punishment requires that when choosing a specific measure of administrative punishment, all the

circumstances of the offense and the identity of the offender are taken into account. Implementation of the specified principle is promoted by fixing in the legislation of possibility of a choice of administrative penalty from several possible (alternative sanctions) or the specific size of collecting within the provided minimum and maximum (rather certain sanctions), proceeding from character of an offense and the person guilty.

The principle is explained as follows: what is more harmful than an offense, a more significant type of administrative penalty should be applied by the competent authorities (officials). For an example of implementation in practice of this principle it is necessary to specify that violation of rules of behavior on the aircraft, namely, non-performance by the persons who are on the aircraft, orders of the commander of the vessel involves the prevention or imposition of the penalty from one to five non-taxable minima of the income of citizens (part 1 of Art. 112 of CAO). At the same time, willful disobedience of a lawful order or demand of the employee of militia, the member of public formation on protection of a public order and state border, the soldier because of their participation in the protection of public order punishable by a fine from eight to fifteen non-taxable minimum incomes of citizens or public works for a period from forty to sixty hours, or correctional labor for a term of one to two months with assignment of twenty percent of earnings, and if the circumstances of the case, given the person, the application of these measures will be deemed insufficient, – administrative arrest for up to fifteen days (part 1 of article 185 of the CAO).

3. Delineation of administrative responsibility from other types of legal responsibility

Administrative responsibility cannot be perceived differently than in the context of other types of responsibility, because the synthesizing principle here is the need to be responsible for their own actions, illegal actions, to take the blame for their consequences. Although there are common features that are inherent in any type of legal liability, administrative liability, at the same time, differs from other types of legal liability. The criteria of differentiation include:

a) grounds for bringing to administrative responsibility;

b) a circle of subjects which are allocated with the right of initiation and consideration of cases on administrative offenses; establishment of administrative responsibility;

c) legal consequences;

d) procedural procedure;

e) sanctions.

Administrative liability is dissociated from criminal liability on the following grounds:

1) administrative responsibility comes for Commission of an administrative offense which structure is defined both by laws (administrative Code, the Customs code of Ukraine, the Law of Ukraine "About Association of citizens"), and by-laws (the decision of local governments). Criminal liability occurs for the Commission of a crime, the composition of which is determined exclusively by the norms of the Criminal code of Ukraine;

2) a wide range of subjects of public administration have the right to initiate cases of administrative offences, as well as the right to consider such cases. The right to initiate criminal cases is vested exclusively with the bodies of inquiry and preliminary investigation, defined by the criminal procedure code of Ukraine, and the Prosecutor's office, and the right to review – exclusively the courts. As for the subjects who establish legal liability, unlike criminal liability, which is established exclusively by the Verkhovna Rada of Ukraine, administrative liability is established by other subjects of public administration (local self-government bodies);

3) only individuals shall be held criminally liable, and both individuals and legal entities shall be held administratively liable;

4) bringing a person to administrative responsibility and applying administrative sanctions to him does not lead to such consequences as a criminal record, which further manifests itself in certain restrictions on her legal personality (for example, free travel outside Ukraine);

5) administrative responsibility is realized both in extrajudicial, and in a judicial order, criminal-only in judicial;

6) bringing a person to administrative responsibility takes place in a short time and under a simplified procedure (the possibility of imposing an administrative penalty at the place of Commission of an illegal act, without drawing up a Protocol on an administrative offense-article 258 of the CAO).

It should also be noted that criminal liability takes precedence over administrative liability. In part 2 of article 9 of the Code of Ukraine on administrative offences, it is noted that administrative responsibility for offences under the administrative Code occurs if these violations by their nature do not entail criminal liability in accordance with the law[8].

Administrative responsibility is dissociated from civil law on the following grounds:

1) in the Institute of administrative responsibility there is a presumption of innocence, and in civil-a presumption of guilt;

[8] Kolomoets T. Administrative responsibility: studies. benefit. Kiev: Istina, 2011. 177 p.

2) the purpose of bringing to administrative responsibility is education of the person and prevention of Commission of offenses further and by other persons, civil-first of all, compensation of damage;

3) administrative responsibility falls within the competence of public administration bodies and their officials, while civil liability falls within the competence of the courts;

4) measures of civil liability public relations, as a rule, are protected at the expense of the property of the perpetrator in order to restore the former property status of the injured party, and measures of administrative responsibility, as criminal, are directed against the person of the offender;

5) normative grounds of administrative and civil liability are regulated by different legislation-administrative and civil. Differences on the actual bases consist in specificity of concrete structures of administrative and civil offenses-object of illegal encroachment, legal consequences of their Commission.

The object of civil illegal actions are property relations, which are protected in court. The object of administrative illegal actions is another-public relations in the field of public administration, which are protected both in court and out of court by the authorities of the relevant bodies and officials.

Administrative liability differs from civil liability and the consequences of an unlawful act. If for administrative offenses such element as illegal consequence (material damage) is not always obligatory, the structure of a civil offense, as a rule, provides it;

6) administrative liability occurs mainly out of court in a short time or even at the place of Commission of the offense, but the civil law cannot take place without the appropriate application of the interested party to the court with a claim. Terms of bringing to civil liability, as opposed to administrative, – up to 3 years, they can be interrupted, lengthened, updated and the like.

There are significant similarities between administrative and disciplinary responsibility. They have about the same degree of public danger. Characterized by such traits as guilt, unlawfulness, criminal liability.

Evidence of their closeness is the position of the legislator, who in article 15 of the CAO establishes that person's subject to disciplinary statutes, for administrative offenses are subject to disciplinary responsibility.

It is supported by the explanations of the Plenum of the Supreme Court of Ukraine "on the practice of consideration by courts of complaints against decisions in cases of administrative offenses", which States that bringing officials and citizens to disciplinary responsibility for their offenses does not exclude the application of administrative penalties for these violations and does not exempt them from the obligation to compensate for the harm caused by them.

At the same time, the urgent need is to determine the features on which administrative responsibility differs from disciplinary, namely:

1) the main feature that determines all other differences between administrative and disciplinary responsibility is their different legal nature. It finds its expression in the fact that the duty to comply with the rules, for violation of which administrative responsibility is provided, relies on the relevant subjects authoritatively. The obligation to adhere to the rules, for violation of which disciplinary responsibility is provided, is assumed by the relevant subjects voluntarily.

Thus, the nature of administrative responsibility is public law. It occurs in violation of generally binding rules, which are established by the public administration. Such rules are legal expression of generalizations about socially useful behavior of subjects of public relations. They are contained in laws and operate throughout the country, regardless of the territorial, institutional, ethnic, property, demographic, production and other characteristics of the regions and their population. By means of these rules strengthening of legality, prevention of an offense, education of citizens in the spirit of exact and steady observance of the Constitution and laws of Ukraine, respect for the rights, honor and advantage of other citizens, to rules of cohabitation, conscientious performance of the duties, responsibility before society is carried out. And also protection and protection of the rights and freedoms of citizens, property, the constitutional system of Ukraine, the rights and legitimate interests of enterprises, institutions and organizations, the established law and order.

Obligatory rules are subject to execution by all subjects, regardless of personal ideas about the appropriateness of certain actions. Their violation implies legal responsibility (administrative responsibility).

The nature of disciplinary responsibility is civil. It arises on the condition that the parties have entered into an employment contract and come to an agreement on mutual rights and obligations that will be performed voluntarily. An integral part of such agreements is the obligation to comply with the internal labor regulations (the rules of discipline established in the organization) and bear responsibility for its violation. It should be defined that a disciplinary offence is a breach of discipline that operates within a particular organizational structure. In this context, discipline is a set of regulations governing the obligations of the parties to labor relations. The legal encyclopedia gives such definition of a disciplinary offense: illegal non-performance or improper performance by the employee of the labor duties for what to it disciplinary punishment can be applied. Thus, administrative and disciplinary responsibility are different in nature objects of encroachment. Thus, the objects of encroachment of an

administrative offense are characterized by a national scale and importance (constitutional system, established law and order, property, rights of citizens). And objects of encroachment of a disciplinary offense are localized by the employment contract within the limits of concrete organizational structure. The General object here will be the discipline of labor. Direct objects-its individual elements. For example, the rules of working time, organization of the labor process at the enterprise, rules for the use of the property owner, rules for admission, rules of disclosure, rules for compulsory medical examination and the like.

It should be noted that in some cases, labor duties and General duties (administrative and legal) may coincide. This applies to drivers, trade workers. In such cases the violations committed by them are both disciplinary and administrative;

2) administrative responsibility is carried out under the legislation on administrative offences, which currently acts as a separate legislative branch. Here the definition of an administrative offense is given, specific structures are described, jurisdiction on consideration of cases is established, procedural questions are in detail regulated. Disciplinary responsibility does not form a separate branch of legislation. It is directly or indirectly expressed in the normative material of administrative, labor, correctional labor and other branches of law. This, for example, the labor Code of Ukraine of December 10, 1971 (articles 40, 41, 139, 140, 147); Criminal Executive code of Ukraine of July 11, 2003 (articles 68, 82 and others); laws of Ukraine "on labor protection" of October 14, 1992 (article 19); "on collective agreements and agreements" of July 1, 1993 (articles 17, 18, 19); statutes and regulations on discipline (for example, "Disciplinary Statute of the civil protection service" of March 5, 2009, "Disciplinary Statute of the State service for special communications and information protection of Ukraine" of September 4, 2008, "Disciplinary Statute of internal Affairs bodies" of February 22, 2006).

The Central place among the listed normative acts belongs to the labour Code. It serves as a guideline for all other acts that establish disciplinary responsibility.

In contrast to clearly written out compositions of administrative offenses, the compositions of disciplinary offenses are defined in the most General form. Thus, the Disciplinary Statute of the Armed Forces of Ukraine recognizes as a disciplinary offense violation of military discipline or public order. The disciplinary Statute of the internal Affairs bodies recognizes as a disciplinary offense the failure or improper performance by a person of the rank and file or commanding staff of the service discipline;

3) administrative responsibility differs from the disciplinary characteristic of the subject who committed the illegal act. The subject of an administrative

offense is a sane person who has reached the age of 16 and has performed the administrative offense described in the law. Thus, the main features of the subject of administrative misconduct are age, sanity, guilt. And the subject of disciplinary misconduct can only be a person who is in an employment relationship with the employer. Such a person may be both an adult and a minor. The main feature of the subject of disciplinary misconduct is the stay in the employment relationship with the employer. Absence of this sign excludes recognition of the person as the subject of a disciplinary offense;

4) administrative offences differ from disciplinary offences by the characteristics of the subject who has the right to consider them and make decisions. Thus, the subject of disciplinary cases is the head of the team in which the offender works. Between them (the head and the violator of discipline) necessarily there are steady organizational communications of type "the chief-the subordinate". And the subject of consideration of cases on administrative offenses is the carrier of the functional power which powers are accurately defined and fixed in the legislation. There are no stable organizational ties between him and the offender.

CONCLUSIONS

Therefore, administrative responsibility is a special type of legal responsibility. Administrative liability has a number of specific features that distinguish it from other types of legal liability. Traditionally, legal responsibility is associated with the use of measures of state coercion, it is considered as a reaction to the offense provided for by the sanctions of legal norms, as the implementation, application and implementation of sanctions. The application of measures of legal responsibility entails for the offender burdensome consequences of property, moral, personal or other nature, which he is obliged to undergo and actually endure. Thus, the offender "holds accountable" to the state for misconduct.

SUMMARY

The article reveals the concept, features and grounds of administrative responsibility principles of administrative responsibility, differentiation of administrative responsibility from other types of legal responsibility

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